

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
2018 Biennial Review of Telecommunications Regulations)	IB Docket No. 18-377
)	

**COMMENTS OF ECHOSTAR SATELLITE OPERATING CORPORATION AND
HUGHES NETWORK SYSTEMS, LLC**

I. Introduction

EchoStar Satellite Operation Corporation and Hughes Network Systems, LLC (“Hughes”) (together with their affiliates, “EchoStar”) submit these comments to assist in the Commission’s 2018 biennial review of telecommunications regulations, specifically with respect to the Part 25 rules administered by the International Bureau for the regulation of satellite communications.¹

Under Section 11 of the Communications Act of 1934, as amended (“Communications Act”),² the Commission is required to conduct a biennial review of its telecommunications regulations to: (i) determine whether such regulations are “no longer necessary in the public interest as the result of meaningful economic competition between providers of such service,” and (ii) repeal or modify any regulation found no longer in the public interest.³ Accordingly,

¹ See *FCC Bureaus and Offices Seek Public Comment in 2018 Biennial Review of Telecommunications Regulations*, Public Notice, DA 18-1260 (Dec. 17, 2018). Due to the suspension of government operations, the deadline for filing this petition has been extended until January 30, 2019. See *Suspension of Filing Deadlines*, Public Notice, DA 19-20 (Jan. 28, 2019).

² 47 U.S.C. § 161.

³ See *Cellco Partnership v. FCC*, 357 F.3d 88 (D.C. Cir. 2004) (interpreting the Section 11 standard for repealing or modifying regulations determined to be no longer necessary).

pursuant to its Section 11 mandate, the Commission should take this opportunity to repeal or modify certain Part 25 rules that are no longer in the public interest, particularly those rules that impose unequal burdens on satellite service providers, placing them at a regulatory and competitive disadvantage with respect to other satellite or terrestrial service providers. As a result, such rules operate to impede, rather than foster, the growing economic competition that has developed over the years among both satellite and terrestrial service providers.

II. The Commission’s Biennial Review of Its Telecommunications Rules Is Critical to Existing and New Satellite Investments

With its fleet of predominantly U.S.-licensed satellites and U.S.-based ground network facilities, EchoStar is the largest U.S.—and fourth largest worldwide—commercial geostationary satellite orbit (“GSO”) operator, providing broadband, video, and other services to meet the needs of small and large customers, including internet service providers, media and broadcast organizations, direct-to-home providers, enterprise customers, government service providers, and residential consumers in the United States and abroad. Additionally, Hughes is the largest provider of satellite broadband services in the United States and globally, with approximately 1.3 million subscribers in the Americas.⁴ As the nation’s leading satellite provider of consumer broadband, Hughes is filling the void in the market by deploying new and innovative broadband services to large pockets of unserved or underserved communities throughout the United States and the world.

Given its long history as a Commission-licensed and regulated provider of broadband and other communications services to U.S. and global consumers, EchoStar consistently has supported streamlining rules that impose undue economic burdens. Notably, in support of the

⁴ See Press Release, Hughes, *Bank BRI Selects Hughes to Power Next Generation Satellite Network* (July 17, 2018), <https://www.hughes.com/who-we-are/resources/press-releases/bank-bri-selects-hughes-power-next-generation-satellite-network>.

Commission's 2016 biennial review of telecommunications regulations, EchoStar urged the Commission to repeal or modify a number of Part 25 rules that no longer serve the public interest, including the following:

- repealing Section 25.170's annual reporting requirements;
- modifying Section 25.114 to provide for issuance of an official copy of a space station authorization following grant of the application;
- modifying Sections 25.114 and 25.115 to permit an option to submit a streamlined application for a comprehensive license for both space and earth station operations;
- modifying Section 25.112 to streamline and expedite the license application process;
- repealing Section 25.131(j)'s licensing requirement for receive-only earth stations communicating with non-U.S.-licensed satellites;
- modifying Section 25.119 to permit flexibility to transfer control of licensing authority of a satellite to a non-U.S. administration; and
- modifying Section 25.117 to allow a license modification to move a satellite to a non-U.S. orbital location.⁵

At least some of EchoStar's 2016 biennial review proposals are now under consideration in the Commission's *Further Streamlining Part 25* rulemaking.⁶ The Commission's biennial review remains critical to eliminating regulatory barriers to investments in existing and new satellite networks and technologies. Indeed, in reaffirming the Commission's deep commitment to creating opportunities for the satellite industry, Chairman Pai highlighted the Commission's efforts to repeal or revise outdated rules as a key component of its plan to promote investment in

⁵ See Comments of EchoStar, IB Dkt. No. 16-131, at 4-8 (Dec. 5, 2016); Reply Comments of EchoStar, IB Dkt. No. 16-131, at 3-6 (Jan. 3, 2017).

⁶ See *Further Streamlining Part 25 Rules Governing Satellite Services*, Notice of Proposed Rulemaking, FCC 18-165, ¶¶ 6, 17, 21 (2018).

new networks.⁷ As Chairman Pai rightfully noted, “eliminating some regulatory burdens ... can enable a fast-growing segment of the satellite industry to innovate and invest in new technologies.”⁸ With that objective in mind, EchoStar fully supports the Commission’s 2018 biennial review and urges the Commission to continue its mission of repealing or revising burdensome, unnecessary rules.

III. The Commission Should Repeal or Revise Additional Part 25 Rules That Are No Longer in the Public Interest

At a minimum, the Commission’s 2018 biennial review should include Part 25 rules proposed for elimination or revision in other Commission proceedings. For example, in support of the Commission’s review mandated under the Regulatory Flexibility Act of 1980 (“RFA”), EchoStar has proposed eliminating or revising additional Part 25 rules, including the following:

- deleting Section 25.110(e)’s requirement to keep the original copy of an electronically filed application;
- deleting Section 25.112(a)(3)’s requirement to dismiss applications for satellite operations in a frequency band not allocated internationally for such operations;
- deleting Section 25.131(h)’s requirement to renew registrations for receive-only earth stations;
- deleting Section 25.159’s “three-strikes” rule;
- revising Section 25.117(d) to add a new subsection codifying a longstanding Commission presumption deferring to satellite operators’ fleet management decisions;
- revising Section 25.118(a)(4) to permit additional earth station modifications not requiring prior Commission authorization, including (i) antenna height increases within the limits prescribed by the Federal Aviation Administration; and (ii) changes in the authorized coordinates of up to 10 seconds in latitude or longitude for stations operating

⁷ See Ajit Pai, Chairman, FCC, *Remarks at the 7th Annual Americas Spectrum Management Conference*, National Press Club, Washington, D.C. (Oct. 3, 2018), at <https://www.fcc.gov/document/chairman-pai-5g-americas-spectrum-management-conference> .

⁸ *Id.* at 3.

on frequencies shared with terrestrial systems or up to 30 seconds in latitude or longitude for stations operating on frequencies not shared with terrestrial systems;

- revising Sections 25.118(a) and (e) to eliminate the Form 312 filing requirement (including filing fees) for permitted Commission notification of certain space and earth station modifications;
- revising Section 25.121(a) to: (i) apply the same 15-year license term to all satellite licenses, except DBS/SDARS/BSS licensed as broadcast facilities; and (ii) add a new subsection permitting issuance of an official instrument of authorization for space station operations;
- revising Section 25.121(e) to: (i) provide for the filing of applications for replacement authorization and license renewal of any space stations, and not just non-geostationary orbit satellites; and (ii) permit license renewal filings any time prior to the expiration date;
- revising Section 25.118(b) to permit additional earth station modifications not requiring notification to the Commission, including modifications for replacement equipment operating consistent with the technical parameters authorized for the existing equipment;
- revising Section 25.133(a) and (b) to permit additional flexibility to commence earth station operations within the longer milestone period required under Section 25.164 for new satellite systems authorized for communications with such earth stations; and
- revising Section 25.210(j)'s east-west station-keeping requirement to conform to the ITU's less stringent 0.1° east-west station-keeping requirement.⁹

As EchoStar has demonstrated, the Part 25 rules identified above are unnecessary, duplicative, or otherwise unduly burdensome, and thus should be eliminated or revised as required under the RFA.¹⁰ Because these rules are no longer necessary in the public interest, the Commission also should consider eliminating or revising the rules as part of its 2018 biennial review mandated by the Communications Act.

⁹ See Comments of EchoStar, CB Dkt. No. BO 16-251, at 4-12 (May 4, 2017); Comments of EchoStar, CB Dkt. No. BO 18-31, at 5-6 (Oct. 29, 2018).

¹⁰ See *id.*

IV. Conclusion

Based upon the foregoing, EchoStar urges the Commission to conduct a thorough biennial review of telecommunication regulations, including Part 25 rules, that should be repealed or modified. In carrying out its mandate under the Communications Act, the Commission should find that a number of Part 25 rules are no longer in the public interest and thus should be repealed or modified.

Respectfully submitted,

**ECHOSTAR SATELLITE OPERATING CORP.
AND HUGHES NETWORK SYSTEMS, LLC**

By: /s/ Jennifer A. Manner
Jennifer A. Manner
Senior Vice President, Regulatory Affairs
11717 Exploration Lane
Germantown, MD 20876

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